

## Nays—44.

Baldwin.	Morris
Branch.	of Montague.
Bryant.	Neblett.
Burkett.	Perkins
Burmeister.	of Cherokee.
Childers.	Pollard.
Cox.	Pope.
Davis, John E.,	Quinn.
of Dallas.	Rice.
Fly.	Rogers of Shelby.
Fugler.	Rountree.
Garrett.	Rowland.
Grissom.	Satterwhite.
Hardin.	Stephens.
Harrington.	Swann.
Hill.	Sweet of Brown.
King.	Thomason.
Lackey.	Thompson
Laird.	of Harris.
Looney.	Thorn.
McCord.	Veatch.
McKean.	Wallace.
Moore.	Williams
Morris of Medina.	of McLennan.
	Wright.

## Absent.

Aiken.	Johnson of Ellis.
Bass.	Laney.
Bonham.	Merriman.
Brown.	Wadley.
Estes.	

## Absent—Excused.

Adams.	Lealie.
Chitwood.	Schweppe.
Cummins.	Seagler.
Duncan.	Westbrook.
Faubion.	Williams
Harrison.	of Montgomery.
Lauderdale.	

Mr. Miller of Dallas moved to reconsider the vote by which the resolution was adopted and to table the motion to reconsider.

The motion to table prevailed.

## NOTICES GIVEN.

Mr. Quinn gave notice that he would on tomorrow call up for consideration at that time House bill No. 120, which bill has heretofore been read second time and laid on the table subject to call.

Mr. Curtis gave notice that he would on tomorrow call up for consideration at that time House bill No. 72, which bill has heretofore been read second time and laid on the table subject to call.

## ADJOURNMENT.

Mr. Johnson of Wichita moved that the House recess until 10 o'clock a. m. tomorrow.

Mr. Burkett moved that the House recess until 9 o'clock a. m. tomorrow.

Mr. Perkins of Cherokee moved that the House adjourn until 10 o'clock a. m. tomorrow.

The motion of Mr. Perkins of Cherokee prevailed, and the House, accordingly, at 5:15 o'clock p. m., adjourned until 10 o'clock a. m. tomorrow.

## THIRTY-THIRD DAY.

(Saturday, February 26, 1921.)

The House met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Thomas.

The roll was called and the following members were present:

Aiken.	Henderson.
Baldwin.	of McLennan.
Barker.	Henderson
Barrett of Bell.	of Marion.
Barrett of Fannin.	Hendricks.
Beasley	Hill.
of Hopkins.	Horton.
Beasley	Johnson
of McCulloch.	of Gillespie.
Beavens.	Johnson of Ellis.
Binkley.	Johnson
Black, W. A.,	of Wichita.
of Bexar.	Jones.
Bonham.	Kacir.
Branch.	Kellis.
Bryant.	King.
Burmeister.	Kveton.
Burns.	Lackey.
Carpenter.	Laird.
Childers.	Lawrence.
Chitwood.	Lindsey.
Coffee.	Looney.
Cox.	McCord.
Crumpton.	McDaniel.
Curtis.	McFarlane.
Davis, John E.,	McLeod.
of Dallas.	Malone.
Duffey.	Martin.
Edwards.	Marshall.
Estes.	Mathes.
Fly.	Melson.
Fugler.	Menking.
Garrett.	Merriman.
Greer.	Miller of Dallas.
Grissom.	Miller of Parker.
Hall.	Morgan.
Hanna.	Moore.
Hardin.	Morris
Harrington.	of Montague.

Mott.	Stephens.
Neblett.	Stevenson.
Owen.	Stewart
Patman.	of Edwards.
Perkins	Stewart of Reeves.
of Cherokee.	Swann.
Perkins of Lamar.	Sweet of Brown.
Perry.	Sweet of Tarrant.
Pollard.	Thomason.
Pool.	Thompson
Quaid.	of Red River.
Quicksall.	Thorn.
Quinn.	Thrasher.
Rice.	Veatch.
Rogers of Harris.	Walker.
Rogers of Shelby.	Wallace.
Rosser.	Webb.
Rountree.	Wessels.
Rowland.	West.
Satterwhite.	Williams
Sims.	of McLennan.
Smith.	Wright.
Sneed.	

Absent.

Brown.	McKean.
Davis, John,	Morris of Medina.
of Dallas.	Pope.
Laney.	

Absent—Excused.

Adams.	Lauderdale.
Baker.	Leslie.
Bass.	Schweppe.
Black, O. B.,	Seagler.
of Bexar.	Shearer.
Brady.	Teer.
Burkett.	Thomas
Crawford.	of Limestone.
Cummins.	Thompson
Darroch.	of Harris.
Dinkle.	Wadley.
Duncan.	Westbrook.
Faubion.	Williams
Harrison.	of Montgomery.

A quorum was announced present.

Prayer was then offered by the Rev. J. C. Mitchell, Chaplain.

## LEAVES OF ABSENCE GRANTED.

The following members were granted leaves of absence on account of important business:

Mr. Thomas of Limestone for today, on motion of Mr. Fly.

Mr. Bass for today, on motion of Mr. Merriman.

Mr. Carpenter for today, on motion of Mr. Mott.

Mr. Thompson of Harris, for today, on motion of Mr. Beavens.

Mr. O. B. Black of Bexar for today, on motion of Mr. Hall.

Mr. Brady for today, on motion of Mr. Binkley.

Mr. Baker for today, on motion of Mr. Rountree.

Mr. Dinkle for today and indefinitely, on motion of Mr. Beasley of Hopkins.

Mr. Darroch for today, on motion of Mr. Rice.

Mr. Burkett for today, on motion of Mr. Cox.

Mr. Wadley for today, on motion of Mr. Crumpton.

Mr. Harrison for today and indefinitely, on motion of Mr. Johnson of Gillespie.

## RESOLUTION TO AMEND RULE.

Mr. Stevenson offered the following resolution:

Resolved, That Rule 18, Section 1, of the Rules, be amended by adding thereto the following:

"A bill amending an existing law must quote in full the section or sections of the existing law that it is proposed to change. Any part of the existing law that the amendatory measure proposes to leave out shall be included within brackets. Any new matter that it is proposed to add to the existing law shall be inserted at the proper place and be underscored. This form shall be adhered to if the bill is printed."

The resolution was read second time.

On motion of Mr. Stevenson, the resolution was referred to the Committee on Rules.

## HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Rountree (by request):

H. B. No. 551, A bill to be entitled "An Act to amend Article 2240 of the Revised Civil Statutes of 1911, and changing the method of filling vacancies in the office of county commissioners."

Referred to Committee on State Affairs.

By Mr. Bonham:

H. B. No. 552, A bill to be entitled "An Act to amend Articles 2851 and 2965, Title 48, Chapter 16, of the Revised Civil Statutes of the State of Texas, providing that any town or village of two hundred inhabitants or over may incorporate for free school purposes only; describing the territory which may be embraced within the limits of such corporation and how the same shall be

laid out; for an election to be held for such incorporations and for due return thereof to the county judge; describing the powers and duties of the county judge thereunder and for the levying and collection of taxes and for the issuing of bonds for school purposes and defining the rights and powers of such incorporated districts and providing for the mode, manner and method of changing the boundaries of school districts; for the description of territory proposed to be incorporated within any school district; providing for certain powers to be vested in the board of trustees in the incorporation of such territory; defining the rights, powers and privileges of the inhabitants and the liability of property embraced within such district, upon the subject repealing only those in conflict herewith, and declaring an emergency."

Referred to Committee on Education.

By Mr. Branch and Mr. Burmeister:

H. B. No. 553, A bill to be entitled "An Act authorizing and directing the making of surveys, investigations and studies by the State Board of Water Engineers to determine the amount of unappropriated flood and other waters of the Rio Grande available for use in the State of Texas; to secure data to serve as basis for division of said waters between the State of Texas and the Republic of Mexico; to conserve the natural resources of the State by construction of irrigation and related works; providing for co-operation in such investigations with the Secretary of the Interior any other branch or bureau of the State or Federal Governments with counties, chambers of commerce or other bodies interested in the water supply of Rio Grande; making an appropriation therefor, and declaring an emergency."

Referred to Committee on Appropriations.

By Mr. Branch:

H. B. No. 554, A bill to be entitled "An Act creating the Los Fresnos Independent School District in Cameron county, Texas, and defining its boundaries; providing for the election of a board of trustees therefor; providing for the selection of a secretary, treasurer, assessor and collector of taxes and all other necessary officers and committees and prescribing their qualifications; investing said district with all the rights, powers, privileges and duties of a town or village incorporated under the general laws of the State for free school

purposes only, and declaring an emergency."

Referred to Committee on Education.

By Mr. Baldwin:

H. B. No. 555, A bill to be entitled "An Act creating the Ropes Independent School District, etc., and declaring an emergency."

Referred to Committee on Education.

By Mr. Thomason and Mr. Pollard:

H. B. No. 556, A bill to be entitled "An Act amending the laws relating to text books for the purpose of securing greater efficiency in uniform text book adoptions, and free text book distribution, and extending its operation; prescribing what school employes may not handle text books and school furniture and school equipment; providing for office space and equipment for county superintendents handling free text books; amending Sections 1, 3, 4, 5 and 21 of Chapter 44, Acts of the First Called Session of the Thirty-fifth Legislature, and Sections 6 and 10 of Chapter 29, Acts of the Thirty-sixth Legislature, and Articles 2904 and 3905, Revised Civil Statutes of 1911, and declaring an emergency."

Referred to Committee on Education.

#### HOUSE JOINT RESOLUTION ON FIRST READING.

The following House joint resolution, introduced today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

By Mr. Edwards:

H. J. R. No. 27, Proposing an amendment to Article 7, of the Constitution of Texas, inhibiting the Legislature from passing any local or special law relative to schools or school districts or creating independent school districts or any other character of school districts; providing for an election to be held upon said amendment, for making an appropriation to defray the expenses of the proclamation and election.

Referred to Committee on Constitutional Amendments.

#### HOUSE BILL NO. 302 ON SECOND READING.

The Speaker laid before the House, as a special order for this hour on its second reading and passage to engrossment,

H. B. No. 302, A bill to be entitled "An Act amending the laws relating

to text books for the purpose of securing greater efficiency in uniform text book adoptions, and free text book distribution, and extending its operation, prescribing what school employes may not handle text books and school furniture and school equipment, providing for office space and equipment for county superintendents handling free text books, amending Sections 1, 3, 4, 5, and 21, of Chapter 44, Acts of First Called Session of the Thirty-fourth Legislature, and Sections 6 and 10 of Chapter 29, Acts of the Thirty-sixth Legislature and Articles 2904 and 3905, Revised Civil Statutes of 1911, and declaring an emergency."

The bill was read second time.

Mr. Thomason offered the following (committee) amendment to the bill:

Amend Section 1, line 11, as follows: By striking out the word "ten" where it occurs in that line and insert the word "fifteen."

The (committee) amendment was adopted.

Mr. Thomason offered the following (committee) amendment to the bill:

Amend House bill No. 302 by inserting after the sentence ending in the following words, "but the State shall pay the cost of shipping back such books," found on page 7 of the bill, the following:

"Or the State purchasing board shall have the right to purchase the books without the privilege of returning unused or second-hand books if by so doing they can make what in their judgment is a better contract."

The (committee) amendment was adopted.

Mr. Thomason offered the following (committee) amendment to the bill:

Section 1, page 2, paragraph 1, line 11, insert after the word "supervisors," the words "city or county superintendents." In line 20, insert after the words "elementary teachers," the words "supervisors, city, or county superintendents." In line 23, after the words "State Text Book Commission," insert the sentence, "The Elementary Board of the State Text Book Commission shall include in its membership three elementary teachers or supervisors of elementary work, one county superintendent, and one city superintendent."

The (committee) amendment was adopted.

Mr. Thomason offered the following (committee) amendment to the bill:

Section 2, page 4, in line 15, after the words "the adoption," insert the following: "All votes in the adoption of text books shall be taken by written

ballot. Ballots shall be opened and read, after each vote, and each ballot shall be recorded in the minutes, showing how the vote was cast at each time that a vote is taken in adoption of a text book."

The (committee) amendment was adopted.

Mr. Thomason offered the following (committee) amendment to the bill:

Section 7, page 12, after line 8, following the words "County Board of School Trustees," insert the following: "The county superintendent, and the superintendent of an independent district, or principal, if the school has no superintendent, shall be required on receipt of text books from a depository, to check up such text books and return a signed receipt for the same, both to the depository and to the State Superintendent, or county superintendent (if the independent district is under the administration of the county superintendent) within ten days of the delivery of the text books. In case books are delivered when no superintendent or principal of an independent district is employed by the school district, the custodian trustee shall be required to check up such text books and return the required receipts within ten days of the time of delivery. Should such county superintendent, or superintendent or principal of an independent school district refuse to accept or to account for any legally ordered shipment of text books, within the time specified, such county superintendent or superintendent or principal of an independent school district shall be deprived of five dollars of his salary for each day of delay after the specified ten days have elapsed. Any custodian trustee of an independent school district, which has no superintendent or principal employed at the time of delivery of text books, who refuses to accept and account for any shipment of text books legally ordered, shall be deemed guilty of a misdemeanor, and shall be fined not less than two dollars, and not more than five dollars for each day of delay after the specified ten days have elapsed."

Question—Shall the amendment be adopted?

Mr. Crumpton raised a point of order on consideration of the bill on the ground that the text of the bill does not contain an enacting clause.

The Speaker declined to rule on the point of order, stating he would submit the matter to the House for its decision.

Question—Shall the point of order be sustained?

The Clerk was directed to call the roll and the House sustained the point of order by the following vote:

Yeas—51.

Barrett of Fannin.	Menking.
Beasley	Merriman.
of Hopkins.	Morgan.
Beavens.	Moore.
Binkley.	Morris
Bonham.	of Montague.
Burns.	Patman.
Carpenter.	Pool.
Crumpton.	Quaid.
Curtis.	Quinn.
Duffey.	Rowland.
Edwards.	Satterwhite.
Fugler.	Smith.
Garrett.	Sneed.
Grissom.	Stephens.
Hanna.	Stevenson.
Hardin.	Swann.
Henderson	Sweet of Brown.
of McLennan.	Thompson
Henderson	of Red River.
of Marion.	Thorn.
Kacir.	Walker.
King.	Wallace.
Kveton.	Webb.
Lawrence.	Wessels.
Looney.	West.
McDaniel.	Williams
McFarlane.	of McLennan.
Malone.	

Nays—46.

Aiken.	Kellis.
Baldwin.	Lackey.
Barker.	Laird.
Barrett of Bell.	McCord.
Beasley	Martin.
of McCulloch.	Marshall.
Branch.	Mathes.
Bryant.	Melson.
Burmeister.	Miller of Parker.
Childers.	Owen.
Coffee.	Perkins
Davis, John E.,	of Cherokee.
of Dallas.	Perkins of Lamar.
Estes.	Perry.
Fly.	Pollard.
Greer.	Quicksall.
Hall.	Rice.
Harrington.	Rogers of Harris.
Hendricks.	Rogers of Shelby.
Hill.	Rosser.
Horton.	Stewart
Johnson	of Edwards.
of Gillespie.	Sweet of Tarrant.
Johnson	Thomason.
of Wichita.	Thrasher.
Jones.	Wright.

Present—Not Voting.

Cox.	Sims.
McLeod.	Veatch.
Miller of Dallas.	

Absent.

Black, W. A.,	Lindsey.
of Bexar.	McKean.
Brown.	Morris of Medina.
Crawford.	Mott.
Davis, John,	Neblett.
of Dallas.	Pope.
Johnson of Ellis.	Rountree.
Laney.	Stewart of Reeves.

Absent—Excused.

Adams.	Lauderdale.
Baker.	Leslie.
Bass.	Schweppe.
Black, O. B.,	Seagler.
of Bexar.	Shearer.
Brady.	Teer.
Burkett.	Thomas
Chitwood.	of Limestone.
Cummins.	Thompson
Darroch.	of Harris.
Dinkle.	Wadley.
Duncan.	Westbrook.
Faubion.	Williams
Harrison.	of Montgomery.

#### MOTION FOR SPECIAL ORDER.

Mr. Henderson of Marion moved that House bill No. 361 be set as a special order for 11 o'clock a. m. next Tuesday, March 1, and the motion was lost.

#### HOUSE BILL NO. 340 ON ENGROSSMENT.

Mr. Williams of McLennan called up for consideration at this time, on its passage to engrossment,

H. B. No. 340, A bill to be entitled "An Act to prevent the wrongful and unnecessary extraction of cotton from cotton bales and to prevent and control the sale and disposition of same by cotton buyers, cotton weighers, cotton warehousemen and cotton compress companies; defining the word 'waste' and the words 'cotton buyer,' 'cotton weigher,' 'cotton warehousemen,' and 'cotton compress companies,' and providing for the delivery of such waste cotton by such parties to the county judge and for the sale of same by the county judge and his successors, and the application of the funds received from the sale thereof; fixing period of one year as statute of limitation against persons owning the cotton bales from which the waste came, and declaring an emergency."

The bill having heretofore been read second time and laid on the table subject to call and due notice having been given that the same would be called up for consideration today.

Mr. Williams of McLennan offered the following amendment to the bill:

Amend House bill No. 340, Section 2, page 2, line 3, by striking out the words and figures "one-tenth (1-10)" and insert in lieu thereof "one-fifth."

The amendment was adopted.

Mr. Williams of McLennan offered the following amendment to the bill:

Amend House bill No. 340, Section 2, line 39, by striking out the words and figures "two hundred (200)" and insert in lieu thereof "five hundred."

The amendment was adopted.

Mr. Williams of McLennan offered the following amendment to the bill:

Amend House bill No. 340, Section 2, page 2, lines 10 and 11, by striking out the words "out of whose bale of cotton the same came," and insert in lieu thereof "who owned the bale of cotton at the time the same was taken or came from."

The amendment was adopted.

Mr. Williams of McLennan offered the following amendment to the bill:

Amend House bill No. 340, page 2, line 2, by striking out the words "upon receipt of same," and substituting the words "after the sale of same."

Question—Shall the amendment be adopted?

#### NOTICE GIVEN.

Mr. Curtis gave notice that he would on tomorrow call up for consideration at that time House bill No. 72, which bill has heretofore been read second time and laid on the table subject to call.

#### RECESS.

On motion of Mr. Fly, the House at 12 o'clock m. took recess to 2 o'clock p. m. today.

#### AFTERNOON SESSION.

The House met at 2 o'clock p. m., and was called to order by Speaker Thomas.

#### HOUSE BILL NO. 340 ON ENGROSSMENT.

The House resumed consideration of pending business, same being House bill No. 340, relating to the wrongful and unnecessary extraction of cotton from cotton bales, on its passage to engrossment, with amendment by Mr. Williams of McLennan pending.

Question recurring on the amendment, it was adopted.

Mr. Wright offered the following amendment to the bill:

Amend House bill No. 340 by adding at the end of Section 2 the following: "The provisions of this section shall not apply to any cotton buyer who purchased cotton that was weighed before any 'loose' was extracted therefrom, or when such 'loose' was paid for by such purchaser, and which said cotton was sold by such buyer at compress or other reweight."

Mr. Quicksall moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—49.

Baldwin.	Looney.
Barker.	McDaniel.
Barrett of Bell.	McLeod.
Binkley.	Marshall.
Branch.	Mathes.
Bryant.	Melson.
Burns.	Menking.
Childers.	Neblett.
Coffee.	Perkins
Cox.	of Cherokee.
Crawford.	Perkins of Lamar.
Davis, John E.,	Quicksall.
of Dallas.	Rice.
Duffey.	Rowland.
Estes.	Sneed.
Garrett.	Stephens.
Greer.	Stevenson.
Grissom.	Stewart
Harrington.	of Edwards.
Johnson	Stewart of Reeves.
of Gillespie.	Swann.
Jones.	Sweet of Tarrant.
Kacir.	Thorn.
Kellis.	Veatch.
Kveton.	Wessels.
Lawrence.	Williams
Lindsey.	of McLennan.

Nays—42.

Aiken.	Hill.
Barrett of Fannin.	Johnson
Beasley	of Wichita.
of Hopkins.	King.
Beasley	Laird.
of McCulloch.	McFarlane.
Black, W. A.,	Malone.
of Bexar.	Martin.
Bonham.	Merriman.
Burmeister.	Miller of Dallas.
Carpenter.	Moore.
Fly.	Morris
Fugler.	of Montague.
Hall.	Patman.
Hardin.	Pollard.
Henderson	Quaid.
of McLennan.	Quinn.
Henderson	Rosser.
of Marion.	Satterwhite.

Sims.  
Smith.  
Sweet of Brown.  
Thomason.  
Thompson  
of Red River.

Thrasher.  
Walker.  
Wallace.  
Webb.  
West.  
Wright.

## Present—Not Voting.

Adams.  
Crumpton.  
Curtis.  
Edwards.  
Hanna.

Hendricks.  
Lackey.  
Pope.  
Rogers of Harris.  
Rountree.

## Absent.

Baker.  
Beavens.  
Brown.  
Davis, John,  
of Dallas.  
Horton.  
Johnson of Ellis.  
Laney.  
McCord.

McKean.  
Miller of Parker.  
Morgan.  
Morris of Medina.  
Mott.  
Owen.  
Perry.  
Pool.  
Rogers of Shelby.

## Absent—Excused.

Bass.  
Black, O. B.,  
of Bexar.  
Brady.  
Burkett.  
Chitwood.  
Cummins.  
Darroch.  
Dinkle.  
Duncan.  
Faubion.  
Harrison.  
Lauderdale.

Leslie.  
Schweppe.  
Seagler.  
Shearer.  
Teer.  
Thomas  
of Limestone.  
Thompson  
of Harris.  
Wadley.  
Westbrook.  
Williams  
of Montgomery.

Mr. Williams of McLennan moved a call of the House for the purpose of maintaining a quorum pending consideration of House bill No. 340, and the call was duly seconded.

The Speaker then directed the Door-keeper to close the main entrance to the hall and instructed the Sergeant-at-Arms to lock all other doors leading from the hall, and stated that no member would be permitted to leave the hall without written permission from the Speaker.

Mr. Williams of McLennan moved the previous question on the passage of the bill to engrossment, and the main question was ordered.

Question recurring on the engrossment of the bill, yeas and nays were demanded.

House bill No. 340 failed to pass to engrossment by the following vote:

Yeas—44.

Baldwin.

Barker.

Binkley.  
Bonham.  
Bryant.  
Burns.  
Carpenter.  
Childers.  
Coffee.  
Crawford.  
Curtis.  
Davis, John E.,  
of Dallas.  
Duffey.  
Estes.  
Greer.  
Grissom.  
Hendricks.  
Johnson  
of Gillespie.  
Jones.  
Kellis.  
Looney.  
McDaniel.  
McLeod.  
Melson.

Neblett.  
Perkins  
of Cherokee.  
Perkins of Lamar.  
Pollard.  
Pope.  
Quicksall.  
Quinn.  
Rice.  
Rosser.  
Rowland.  
Sneed.  
Stephens.  
Stevenson.  
Stewart  
of Edwards.  
Stewart of Reeves.  
Swann.  
Thorn.  
Thrasher.  
Veatch.  
Williams  
of McLennan.

## Nays—51.

Aiken.  
Barrett of Bell.  
Barrett of Fannin.  
Beasley  
of Hopkins.  
Beasley  
of McCulloch.  
Black, W. A.,  
of Bexar.  
Burmeister.  
Cox.  
Crumpton.  
Edwards.  
Fly.  
Fugler.  
Hall.  
Hanna.  
Hardin.  
Harrington.  
Henderson  
of McLennan.  
Henderson  
of Marion.  
Hill.  
Johnson  
of Wichita.  
Kacir.  
King.  
Kveton.  
Lackey.  
Laird.

Lawrence.  
McFarlane.  
Malone.  
Martin.  
Marshall.  
Mathes.  
Menking.  
Merriman.  
Miller of Dallas.  
Moore.  
Morris  
of Montague.  
Patman.  
Quaid.  
Rogers of Harris.  
Satterwhite.  
Sims.  
Smith.  
Sweet of Brown.  
Sweet of Tarrant.  
Thomason.  
Thompson  
of Red River.  
Wadley.  
Walker.  
Wallace.  
Webb.  
Wessels.  
West.  
Wright.

## Present—Not Voting.

Adams.

Branch.

## . Absent.

Beavens.  
Brown.  
Davis, John,  
of Dallas.  
Garrett.  
Horton.

Johnson of Ellis.  
Laney.  
Lindsey.  
McCord.  
McKean.  
Miller of Parker.

Morgan.	Perry.
Morris of Medina.	Pool.
Mott.	Rogers of Shelby.
Owen.	Rountree.

Absent—Excused.

Baker.	Lauderdale.
Bass.	Leslie.
Black, O. B.,	Schweppe.
of Bexar.	Seagler.
Brady.	Shearer.
Burkett.	Teer.
Chitwood.	Thomas
Cummins.	of Limestone.
Darroch.	Thompson
Dinkle.	of Harris.
Duncan.	Westbrook.
Faubion.	Williams
Harrison.	of Montgomery.

#### SPECIAL ORDER SET.

On motion of Mr. Jones, House bill No. 94 was set as a special order for 10:30 o'clock a. m. next Tuesday.

Mr. Crumpton moved that the House adjourn until 10 o'clock a. m. next Monday.

Mr. Fugler moved that the House recess until 10 o'clock a. m. next Monday.

Both motions were lost.

#### HOUSE BILL NO. 7 ON ENGROSSMENT.

The Speaker laid before the House, as postponed business, on its passage to engrossment,

H. B. No. 7, A bill to be entitled "An Act to repeal Articles 865a, 865b, 865c, 865d, 865e, 865f, 865g, 865h and 865j, of the Code of Criminal Procedure of the State of Texas."

The bill having been read second time on Thursday, January 27.

Mr. Miller of Dallas offered the following amendment to the bill:

Amend House bill No. 7 by striking out all after the enacting clause and insert the following:

Section 1. That Section 1 of Chapter 7 of the General Laws of the Regular Session of the Thirty-third Legislature be amended so as to hereafter read as follows:

Section 1. That where there is a conviction of any felony in any district court of this State, except murder, rape, perjury, burglary of a private residence, robbery, theft of an automobile, arson, incest, bigamy and abortion, the court shall suspend sentence upon application made therefor in writing which shall be sworn to by the defendant and filed in the court in which the defendant is to be tried before the trial begins, which

application shall state that the defendant has never before been convicted of a felony in this State nor in any other State, and that the defendant has, before the date of the offense for which he is to be tried, been of good moral character and that his general reputation as a law abiding citizen has been good; provided that in no case shall sentence be suspended except where the proof shall show by at least three credible witnesses, one of whom shall have known the defendant personally for at least one year prior to the date of indictment, and the jury shall find by its verdict that the defendant's general reputation as a law abiding citizen has been good before the date of the offense charged against him in the indictment on which he is being tried, and provided further, that the proof shall show, and defendant's general reputation as a law abiding citizen has been good and never before been convicted of a felony in this State nor in any other State. This act is not to be construed as preventing the jury from passing on the guilt or innocence of the defendant, but he may enter his plea of not guilty at such time as he is put to trial, and the filing of his application for a suspension of such sentence as the jury may inflict upon him shall not be considered as an admission of guilt on his part, and such application shall not be considered by a jury for any purpose in determining the guilt or innocence of the defendant, but shall be considered by such jury alone for the purpose of assisting such jury in determining whether to recommend the suspension of such sentence as the jury may, by its verdict, assess against the defendant. In no case shall sentence be suspended when the punishment assessed by the jury shall exceed five years confinement in the penitentiary. When the defendant has no counsel, it shall be the duty of the court to inform the defendant of his right to make such application, and the court shall appoint counsel to prepare and present same if desired by defendant.

Sec. 2. That Section 2 of Chapter 7 of the General Laws of the Regular Session of the Thirty-third Legislature is hereby amended so as to hereafter read as follows:

Sec. 2. The court shall permit testimony and submit the question as to the general reputation of the defendant and as to whether the defendant has ever before been convicted of a felony; such testimony shall be heard and such ques-



tions submitted only upon request in writing by the defendant; provided that in all cases, sentence shall be suspended if the jury recommends it in their verdict. Provided further, that in such cases, neither the verdict of conviction nor the judgment entered thereon shall become final, except under the conditions and in the manner and at the time provided for by Section 5 of this act.

Sec. 3. That Section 3 of Chapter 7 of the General Laws of the Regular Session of the Thirty-third Legislature is hereby amended so as to hereafter read as follows:

Sec. 3. When sentence is suspended, the judgment of the court on that subject shall be that the sentence of the judgment of conviction shall be suspended during the good behavior of the defendant. By the term "good behavior" is meant that the defendant shall not be convicted of any felony, nor of the crime of theft of property of the value of under fifty dollars, nor of the embezzlement of property of the value of under fifty dollars during the time of suspension.

Sec. 4. That Section 4 of Chapter 7 of the General Laws of the Regular Session of the Thirty-third Legislature is hereby amended so as to hereafter read as follows:

Sec. 4. Upon final conviction of the defendant of any other felony, or of the theft of property of the value of under fifty dollars or of embezzlement of property of the value of under fifty dollars, pending the suspension of sentence, the court granting such suspension shall cause a capias to issue for the arrest of the defendant, if he is not then in the custody of such court, and upon the execution of such capias, and during a term of the court, shall pronounce sentence upon the original judgment of conviction, and shall cumulate the punishment of the first with the punishment of any other subsequent conviction or convictions, and in such cases no new trial shall be granted in the first conviction.

Sec. 5. That Section 5 of Chapter 7 of the General Laws of the Regular Session of the Thirty-third Legislature is hereby amended so as to hereafter read as follows:

Sec. 5. In any case of suspended sentence, as provided herein, upon the expiration of the time assessed as a punishment by the jury, the defendant may make his written and sworn application for a new trial and dismissal of such case, stating therein that since such for-

mer trial and conviction he has not been convicted of any felony nor of the offense of theft of property of the value of under fifty dollars, nor of embezzlement of property of the value of under fifty dollars, and that there is not now pending against him any felony charge nor any charge of theft of property of the value of under fifty dollars nor any charge of embezzlement of property of the value of under fifty dollars, which said application shall be heard by the court during the first term after same is filed, and if it shall appear to the court, upon hearing of such application, that the defendant has not been convicted of any other felony or of theft of property of the value of under fifty dollars or of embezzlement of property of the value of under fifty dollars, and that there is not then pending against him any other charge of felony or of theft of property of the value of under fifty dollars or of embezzlement of property of the value of under fifty dollars, the court shall enter an order reciting the fact, and shall grant the defendant a new trial and shall then dismiss said case; provided further, that if the defendant is prevented from physical disability or other good cause from applying to the court to have the judgment of conviction set aside at the time provided for, he may make such application at the first term when such physical disability or other good cause no longer exists. After the setting aside the dismissal of any judgment of conviction as herein provided for, the fact of such conviction shall not be shown or inquired into for any purpose, except in such cases where the defendant is again indicted for felony and invokes the benefits of this act.

Sec. 6. That Section 6 of Chapter 7 of the General Laws of the Regular Session of the Thirty-third Legislature is hereby amended so as to hereafter read as follows:

Sec. 6. If at the expiration of the time assessed by the jury as punishment, there be pending against the defendant any other charge of felony or of theft of property of value of under fifty dollars or of embezzlement of property of value of under fifty dollars, the court shall, upon the application of the defendant (which shall be in writing, and shall state under oath that he is not guilty of such charge), further suspend sentence to await the final disposition of such other prosecution.

Sec. 7. That Section 7 of Chapter 7 of the General Laws of the Regular Ses-

sion of the Thirty-third Legislature is hereby amended so as to hereafter read as follows:

Sec. 7. When sentence is suspended, the defendant shall be released upon his recognizance in such sum as may be fixed by the court during such suspension.

Sec. 8. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 9. The fact that there is now no adequate law in this State providing for suspension of sentence in certain cases of felony, and the fact that such law will be a great benefit to the reclamation of young convicts for first offense, creates an emergency and public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill take effect and be in force from and after its passage, and it is so enacted.

Mr. Baldwin offered the following substitute for the amendment:

Amend House bill No. 7 by striking out all after the enacting clause and inserting in lieu thereof the following:

Section 1. Articles 865b, 865c, 865d, 865e, 865f, 865g, 865h and 865i, of Title 9. Code of Criminal Procedure of the State of Texas, are hereby amended so as hereafter to read as follows:

Art. 865b. When there is a conviction of any felony in any district court of this State, except murder, perjury, burglary of a private residence, robbery, arson, incest, bigamy, abortion, theft of an automobile and false swearing, the court shall suspend sentence upon application made therefor in writing by the defendant, which shall be sworn to and filed before the trial begins, when the punishment assessed by the jury shall not exceed five years confinement in the penitentiary; and in all cases where the defendant is charged with a felony other than those named in this article, when the defendant has no counsel, it shall be the duty of the court to inform the defendant of his right to make such application, and the court shall appoint counsel to prepare and present same if desired by defendant; provided, that in no case shall sentence be suspended except when proof shall show and the jury shall find in their verdict that the defendant has never before been convicted of a felony or of a misdemeanor involving moral turpitude in this State or in any other State. This act shall not be so construed as preventing the jury from passing on the guilt or innocence of the defendant, but

he may enter his plea of not guilty at the same time with said affidavit.

Art. 865c. The court shall permit testimony and submit the question as to the general reputation of the defendant to enable the jury to determine whether to recommend the suspension of sentence, and as to whether the defendant has ever before been convicted of a felony or of a misdemeanor involving moral turpitude; such testimony shall be heard and such question submitted only upon the request in writing of the defendant; provided, that in all cases sentence shall be suspended if the jury recommends it in their verdict. Provided further, that in such cases, neither the verdict of conviction nor the judgment entered thereon shall become final, except under the conditions and in the manner and at the time provided for by Article 865e of this act.

Art. 865d. When sentence is suspended the judgment of the court on that subject shall be that sentence of the judgment of conviction shall be suspended during the good behavior of the defendant. By the term "good behavior" is meant that the defendant shall not be convicted of any felony or of any misdemeanor involving moral turpitude during the time of such suspension. Misdemeanors involving moral turpitude shall, for the purposes of this act, include all offenses for which punishment may be assessed of confinement in the county jail for a period of as much as six months.

Art. 865e. Upon the final conviction of the defendant of any other felony, or of any misdemeanor involving moral turpitude, as defined in this act, pending the suspension of sentence, the court granting such suspension shall cause a capias to issue for the arrest of the defendant, if he is not then in the custody of such court, and upon the execution of a capias, and during a term of the court, shall pronounce sentence upon the original judgment of conviction, and shall cumulate the punishment of the first with the punishment of any subsequent conviction or convictions, and in such cases no new trial shall be granted in the first conviction.

Art. 865f. In any case of suspended sentence, as provided herein, upon the expiration of the time assessed as punishment by the jury, the defendant may make his written and sworn application for a new trial and dismissal of such case, stating therein that since such former trial and conviction he has not been convicted of any felony or misdemeanor involving moral turpitude, and that

there is not now pending against him any charge of the grade of felony or any charge of misdemeanor involving moral turpitude as defined in this act, which application shall be heard by the court during the first term after same is filed, and, if it shall appear to the court, upon the hearing of such application, that the defendant has not been convicted of any other felony or of any misdemeanor involving moral turpitude and that there is not then pending against him any other charge of felony or misdemeanor involving moral turpitude, the court shall enter an order reciting the fact, and shall grant the defendant a new trial and shall then dismiss said cause; provided further, that if the defendant is prevented from physical disability or other good cause from applying to the court to have the judgment of conviction set aside at the time provided for, he may make such application at the first term when such physical disability or other good cause no longer exists. After the setting aside and dismissal of any judgment of conviction as herein provided for, the fact of such conviction shall not be shown or inquired into for any purpose, except in cases where the defendant has again been indicted for a felony and invokes the benefit of this act.

Art. 865g. If at the expiration of the time assessed by the jury as punishment, there be pending against the defendant any other charge of felony or of misdemeanor involving moral turpitude, the court shall, upon application of the defendant (which shall be in writing, and shall state under his oath that he is not guilty of such charge) further suspend the sentence to await the final disposition of such other prosecution.

Art. 865h. When sentence is suspended the defendant shall be released upon his recognizance in such sum as may be fixed by the court during such suspension. And in all cases in which the defendant seeks the benefits of this act, proof that the defendant has not been convicted of a felony or misdemeanor involving moral turpitude shall be made by not less than two competent witnesses independently of the testimony of the defendant.

Art. 865i. All laws and parts of laws in conflict herewith are hereby specially repealed, and should any provision or clause of this act be by the courts held unconstitutional or invalid, such decision shall not impair or invalidate any remaining provision or clause.

Question—Shall the substitute be adopted?

Mr. Burmeister moved that further consideration of the bill be postponed until 2 o'clock p. m. next Tuesday.

Mr. McFarlane moved that further consideration of the bill be postponed indefinitely.

Question first recurring on the motion of Mr. Burmeister to postpone further consideration of the bill until 2 o'clock p. m. next Tuesday, yeas and nays were demanded.

The motion to postpone prevailed by the following vote:

Yeas—78.

Adams.	Lindsey.
Aiken.	McDaniel.
Baldwin.	McFarlane.
Barker.	Martin.
Barrett of Bell.	Marshall.
Barrett of Fannin.	Mathes.
Beasley	Melson.
of Hopkins.	Merriman.
Binkley.	Miller of Dallas.
Black, W. A.,	Moore.
of Bexar.	Morris
Bonham.	of Montague.
Branch.	Neblett.
Burmeister.	Owen.
Childers.	Patman.
Coffee.	Perkins
Cox.	of Cherokee.
Crawford.	Perkins of Lamar.
Crumpton.	Pollard.
Curtis.	Pope.
Duffey.	Quaid.
Edwards.	Quinn.
Estes.	Rice.
Fly.	Rogers of Shelby.
Fugler.	Rowland.
Greer.	Sims.
Hall.	Smith.
Hanna.	Sneed.
Henderson.	Stephens.
of McLennan.	Stevenson.
Henderson	Stewart
of Marion.	of Edwards.
Hendricks.	Stewart of Reeves.
Hill.	Sweet of Tarrant.
Johnson	Thomason.
of Gillespie.	Thompson
Johnson of Ellis.	of Red River.
Johnson	Thorn.
of Wichita.	Thrasher.
Jones.	Wallace.
Kacir.	Webb.
Kellis.	West.
King.	Williams
Laird.	of McLennan.
Lawrence.	Wright.

Nays—16.

Beasley	Bryant.
of McCulloch.	Burns.

Grissom.	Quicksall.
Hardin.	Rogers of Harris.
Harrington.	Rountree.
Kveton.	Satterwhite.
Malone.	Sweet of Brown.
Menking.	Wessels.
Pool.	

Present—Not Voting.

Mr. Speaker.

Absent.

Bass.	McKean.
Beavens.	McLeod.
Brown.	Miller of Parker.
Carpenter.	Morgan.
Davis, John E.,	Morris of Medina.
of Dallas.	Mott.
Davis, John,	Perry.
of Dallas.	Rosser.
Garrett.	Swann.
Horton.	Veatch.
Lackey.	Wadley.
Laney.	Walker.
Looney.	Westbrook.
McCord.	

Absent—Excused.

Baker.	Lauderdale.
Black, O. B.,	Leslie.
of Bexar.	Schweppe.
Brady.	Seagler.
Burkett.	Shearer.
Chitwood.	Teer.
Cummins.	Thomas
Darroch.	of Limestone.
Dinkle.	Thompson
Duncan.	of Harris.
Faubion.	Williams
Harrison.	of Montgomery.

#### ADDRESS BY HON. W. H. BARNES.

Mr. Curtis offered the following resolution:

Whereas, A useful and popular member of the Thirty-sixth Legislature from Wood county, Mr. Barnes, is within the bar of the House: therefore

Resolved, That Mr. Barnes be invited to address the House.

Signed—Curtis, Crumpton, Merriman, Quaid, Thorn.

The resolution was read second time and was adopted.

In accordance with the above action, the Speaker announced the appointment of Mr. Thorn, Mr. Curtis and Mr. Crumpton as a committee to escort Mr. Barnes to the Speaker's stand.

The committee having performed their duty, the Speaker presented Mr. Thorn, who introduced Mr. Barnes to the House.

Mr. Barnes then addressed the House.

#### HOUSE BILL NO. 154 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 154, A bill to be entitled "An Act to establish a branch of Agricultural and Mechanical College of Texas in that portion of Western Texas lying west of the ninety-eighth meridian and north of the thirtieth parallel; providing for the location of such college; its government and the control of its finances; defining leading objects and scope of instruction to be given; providing for the instruction of all students of such college in military science, and for the military discipline of all students; conferring upon the Board of Directors of said college the right of eminent domain; making necessary appropriations for the location of said college, and declaring an emergency."

The bill was read second time.

On motion of Mr. Hill, further consideration of the bill was postponed until 3 o'clock p. m. next Tuesday.

#### HOUSE JOINT RESOLUTION NO. 26 ON SECOND READING.

The Speaker laid before the House, as postponed business,

H. J. R. No. 6, Proposing an amendment to Section 2, Article 6, of the Constitution of the State of Texas, by providing that only native born or naturalized citizens of the United States shall be qualified electors in this State, and permitting either the husband or the wife to pay the poll tax of the other and receive the receipt therefor, and permitting the Legislature to authorize absentee voting.

The resolution having heretofore been read second time.

On motion of Mr. Baldwin, the resolution was laid on the table subject to call.

#### HOUSE BILL NO. 120 ON ENGROSSMENT.

Mr. Quinn called up for consideration at this time, on its passage to engrossment,

H. B. No. 120, A bill to be entitled "An Act providing that persons, firms or corporations who operate or conduct hotels, cafes, restaurants, dining cars or other public eating places, bakeries and meat markets in this State, shall not employ or keep in their employ any person who is infected with or affected by any infectious or contagious disease;

and further providing that such persons, firms or corporations or common carriers operating places heretofore named or operating any bakery or meat market, shall have made a medical inspection for all their employes at intervals of time of not more than six months, and if such examination discloses the fact that any person in their employment is infected with or affected by any infectious or contagious disease that such person shall promptly be discharged from such employment; and further providing that all dishes, receptacles or other utensils used in eating or drinking, or for the conveyance of articles of food, shall be thoroughly cleansed since used by another person, and prohibiting the use of dishes, receptacles or other utensils that are cracked or broken in such a manner as to render their sterilization impossible or doubtful, and providing penalties for a violation of the provisions of this act, and declaring an emergency."

The bill have heretofore been read second time and laid on the table subject to call, and due notice having been given that the same would be called up for consideration today.

Mr. Quinn offered the following amendment to the bill:

Amend House bill No. 120, Section 5, page 3, lines 1, 2 and 3, by placing a period after the word "dollars," appearing last in line 1, and striking out the words "or by imprisonment in the county jail for a period of time not exceeding thirty days or both."

Mr. Kveton offered the following amendment to the bill:

Amend House bill No. 120 by striking out enacting clause.

On motion of Mr. Moore, the amendment by Mr. Kveton was tabled.

Question recurring on the amendment by Mr. Quinn, it was adopted.

Mr. West offered the following amendment to the bill:

Amend House bill No. 120 by adding the words "public dairy or dairies" after the word "market," in line 31, page 1.

The amendment was adopted.

Mr. West offered the following amendment to the bill:

Amend caption of House bill No. 120 by inserting the words "public dairy or dairies," in line 13.

The amendment was adopted.

House bill No. 120 was then passed to engrossment.

# MOTION TO TAKE UP HOUSE BILL NO. 120.

Mr. Quinn moved that the constitutional rule requiring bills to be read on three several days be suspended, and that House bill No. 120 be placed on its third reading and final passage.

The motion was lost by the following vote:

Yeas—71.

Adams.	Martin.
Aiken.	Marshall.
Baldwin.	Mathes.
Barker.	Melson.
Barrett of Fannin.	Merriman.
Beasley	Moore.
of Hopkins.	Morris
Beasley	of Montague.
of McCulloch.	Patman.
Bonham.	Perkins of Lamar.
Bryant.	Pollard.
Burmeister.	Pope.
Burns.	Quicksall.
Carpenter.	Quinn.
Childers.	Rice.
Coffee.	Rogers of Harris.
Cox.	Rogers of Shelby.
Curtis.	Rosser.
Darroch.	Rountree.
Davis, John E.,	Rowland.
of Dallas.	Satterwhite.
Duffey.	Smith.
Edwards.	Sneed.
Estes.	Stevenson.
Fly.	Stewart
Greer.	of Edwards.
Hanna.	Stewart of Reeves.
Hardin.	Swann.
Henderson	Sweet of Brown.
of Marion.	Sweet of Tarrant.
Hill.	Thomason.
Johnson	Thompson
of Gillespie.	of Red River.
Kellis.	Thorn.
Laird.	Thrasher.
Lawrence.	Veatch.
Lindsey.	Walker.
McDaniel.	Wallace.
McFarlane.	Webb.
McLeod.	Wright.

Nays—22.

Black, W. A.,	Kacir.
of Bexar.	King.
Crawford.	Kveton.
Crumpton.	Menking.
Fugler.	Miller of Dallas.
Hall.	Neblett.
Harrington.	Owen.
Henderson	Pool.
of McLennan.	Quaid.
Hendricks.	Sims.
Johnson of Ellis.	Wessels.
Jones.	West.

## Present—Not Voting.

Mr. Speaker. Malone.

## Absent.

Barrett of Bell.	Looney.
Beavens.	McCord.
Binkley.	McKean.
Branch.	Miller of Parker.
Brown.	Morgan.
Davis, John,	Morris of Medina.
of Dallas.	Mott.
Garrett.	Perkins
Grissom.	of Cherokee.
Horton.	Perry.
Johnson	Stephens.
of Wichita.	Williams
Lackey.	of McLennan.
Laney.	

## Absent—Excused.

Baker.	Leslie.
Bass.	Schweppe.
Black, O. B.,	Seagler.
of Bexar.	Shearer.
Brady.	Teer.
Burkett.	Thomas
Chitwood.	of Limestone.
Cummins.	Thompson
Dinkle.	of Harris.
Duncan.	Wadley.
Faubion.	Westbrook.
Harrison.	Williams
Lauderdale.	of Montgomery.

HOUSE JOINT RESOLUTION NO. 7  
ON SECOND READING.

The Speaker laid before the House, as postponed business,

H. J. R. No. 7, Proposing an amendment to Section 3 of Article 7 of the Constitution of the State of Texas, by limiting the amount of the poll tax collected by the State to fifty cents; giving the Legislature authority to authorize incorporated towns and cities to collect a poll tax not to exceed fifty cents and by counties not to exceed twenty-five cents.

The resolution having been read second time on Thursday, January 27.

On motion of Mr. Miller of Dallas, the resolution was laid on the table subject to call.

HOUSE JOINT RESOLUTION NO. 14  
ON SECOND READING.

The Speaker laid before the House, as postponed business,

H. J. R. No. 14, To amend Section 1, Article 8, of the Constitution of the State of Texas, providing for a graduated land tax.

The resolution having heretofore been read second time.

On motion of Mr. Crumpton, the resolution was laid on the table subject to call.

## ADDRESS BY CAPT. B. V. BAUCOM.

Mr. Pollard offered the following resolution:

Whereas, Capt. B. V. Baucom, who was duly elected Representative of Ellis county, is now within the presence of the House; and

Whereas, Capt. Baucom was a varsity ace during the war with Germany, having shot down five German planes in combat, winning for him a distinguished service cross and an oak leaf, being equal to two distinguished service crosses: therefore be it

Resolved, That Capt. Baucom be invited to address this House.

Signed—Pollard, Coffee, Hendricks, Johnson, Mathes.

The resolution was read second time and was adopted.

In accordance with the above action, the Speaker announced the appointment of Mr. Hendricks, Mr. Johnson of Ellis, Mr. Pollard and Mr. Coffee as a committee to escort Capt. Baucom to the Speaker's stand.

The committee having performed their duty, the Speaker presented Mr. Hendricks, who introduced Capt. Baucom to the House.

Capt. Baucom then addressed the House.

HOUSE BILL NO. 240 ON SECOND  
READING.

On motion of Mr. Bonham, by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passage to engrossment,

H. B. No. 240, A bill to be entitled "An Act to amend Chapter 143 of the General Laws of the State of Texas passed by the Thirty-third Legislature at the Regular Session thereof, being 'An Act to amend Article 4694 of the Revised Civil Statutes of 1911, giving cause of action where injuries resulting in death is caused by the negligence of a corporation, its agents or servants, and declaring an emergency'; by giving a cause of action for injuries resulting in death against any person, association of persons, joint stock company, corporation, his, its, or their owner, agents or servants, against the proprietor, owner, charterer or hirer of any industrial or public utility plant, railroad, street railway, steamboat, stage coach or other vehicle for the conveyance of

goods or passengers, and against the receiver or receivers, trustee or trustees, or other person or persons in charge or in control of any railroad, street railway, steamboat, stage coach or other vehicle for the conveyance of goods or passengers, or any industrial plant, public utility plant or other machinery, where such injuries result from the negligence of the persons, corporations, trustees or joint stock companies, their agents or servants; providing that no agreement between the owner of certain property and utility plant and the persons or trustees operating the same shall release such persons or trustees from liability under this act; repealing all laws in conflict herewith; providing that the invalidity of any provision hereof shall not affect the remaining provisions, and declaring an emergency."

The Speaker laid the bill before the House and it was read second time.

Mr. Bonham offered the following amendment to the bill:

Amend House bill No. 240 by striking out all above the enacting clause and inserting in lieu thereof the following:

"A bill to be entitled 'An Act to amend Article 4694 of the Revised Civil Statutes of the State of Texas of 1911, as amended by Chapter 143 of the Acts of the Regular Session of the Thirty-third Legislature, approved April 7, 1913, by giving a cause of action for injuries resulting in death against (1) any person, association of persons, joint stock company, corporation, trustee or receiver; (2) the proprietor, owner, charterer, hirer, trustee, receiver, or other operator of any industrial or public utility plant, railroad, street railway, steamboat, stage coach, or other vehicle for the conveyance of goods or passengers, or any other machinery, where such injuries result from the negligence, wrongful act, neglect, unskillfulness, unfitness or default of such person, association of persons, joint stock company, corporation, trustee, receiver, owner, charterer, hirer, or operator, his, its or their agents or servants; providing that no agreement between an owner and any lessee, trustee, receiver, corporation or other operator of any vehicle for the transportation of passengers or goods, or any industrial or public utility plant, or other machinery shall release such owner, lessee, trustee, receiver, corporation or other person from any liability fixed by the provisions of this act; repealing all laws in conflict herewith, providing that the invalidity of any provisions hereof shall not affect the remaining provisions, and declaring an emergency.'"

The amendment was adopted.

Mr. Bonham offered the following amendment to the bill:

Amend House bill No. 240 by striking out all after the enacting clause and inserting in lieu thereof the following:

"Section 1. That Article 4694 of the Revised Civil Statutes of Texas of 1911, as amended by Chapter 143 of the General Laws of the State of Texas passed by the Thirty-third Legislature at its Regular Session, approved April 7, 1913, be and the same is hereby amended so that hereafter the same shall read as follows:

"Article 4694. An action for actual damages on account of injuries causing the death of any person may be brought in the following cases:

"1. When an injury causing the death of any person is caused by the wrongful act, neglect, carelessness, unskillfulness, or default of another person, association of persons, joint stock company, corporation or trustee or receiver of any person, corporation, joint stock company, or association of persons, his, its or their agents or servants, such person, association of persons, joint stock company, corporation, trustee or receiver, shall be liable in damages for the injuries causing such death. The term corporation as here used shall include all municipal corporations, as well as all private and public and quasi-public corporations.

"2. When an injury causing the death of any person is caused by the wrongful act, neglect, carelessness, unskillfulness, or default of the proprietor, owner, charterer or hirer of any industrial or public utility plant, or any railroad, street railway, steamboat, stage coach or other vehicle for the conveyance of goods or passengers, or by the unfitness, wrongful act, neglect, carelessness, unskillfulness or default of his, their, or its servants or agents, such proprietor, owner, charterer, or hirer, shall be liable in damages for the injuries causing such death.

"3. When an injury causing the death of any person is caused by the wrongful act, neglect, carelessness, unskillfulness, or default of the receiver or receivers, trustee or trustees, or other person or persons in charge of, or in control of any railroad, street railway, steamboat, stage coach, or other vehicle for the conveyance of goods or passengers, or any industrial plant, public utility plant, or any other machinery or by the wrongful act, neglect, carelessness, unfitness, unskillfulness or default of his or their servants or agents, such

receiver or receivers, trustee or trustees, or other person shall be liable in damages for the injuries causing such death, and the liability here fixed against such receivers, trustees or other persons shall extend to all cases in which the death is caused by reason of any bad or unsafe condition of the railroad, street railway or other machinery under the control or operation of such receivers, trustees or other persons and to all other cases in which the death results from any other reason or cause, for which an action may be brought for damages on account of personal injuries the same as if said railroad, street railway or other machinery was being operated by the owner thereof.'

"Sec. 2. No agreement between any owner of any railroad, street railway, steamboat, stage coach or other vehicle for transporting passengers or goods, or any industrial or public utility plant, or other machinery, and any person, corporation, trustee, receiver, lessee or other person in control of, or operating the same, shall release such owner, person, trustee or lessee from any liability fixed by the provisions of this act.

"Sec. 3. All laws in conflict herewith are hereby repealed. If any of the provisions of this act are held invalid, such invalidity shall not affect any of the remaining provisions hereof.

"Sec. 4. Our appellate courts having held that the present Article 4694, as now in force, does not allow recovery for injuries resulting in death when caused by the wrongful act, neglect, unskillfulness or default of another person, his agents or servants, on account of the wording of the caption of the amendatory act approved April 7, 1913, being Chapter 143 of the Acts of the Regular Session of the Thirty-third Legislature, and the crowded condition of the legislative calendar, creates an emergency and an imperative public necessity, demanding the suspension of the rule requiring bills to be read on three several days in each house, and said rule is hereby suspended, and that this act take effect from and after its passage, and it is so enacted."

Mr. Bonham offered the following amendment to the amendment:

Amend the amendment by inserting in Section 2, line 7 of said section, next after the word "lessee," the following: "joint stock association."

The amendment to the amendment was adopted.

The amendment as amended was then adopted.

House bill No. 240 was then passed to engrossment.

#### HOUSE BILL NO. 291 ON SECOND READING.

On motion of Mr. Wright, by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passage to engrossment,

H. B. No. 291, A bill to be entitled "An Act further regulating the increase of capital stock of State banks or banking corporations; amending Article 564, Chapter 6, Title 14, Revised Civil Statutes of the State of Texas, 1911, requiring the increase of the capital stock of banks, through orders of the State Banking Board when the statements of the said banks show excessive increase of average daily deposits as compared to the capital stock and surplus of said banks by providing that the State Banking Board may relieve such bank of such order upon finding of conditions justifying such relief; and declaring it to be an offense to receive deposits after refusal or failure of such bank or banking corporation to comply with any order or requirement of the State Banking Board pursuant to the provisions of this act, and fixing the penalty and punishment therefor."

The Speaker laid the bill before the House and it was read second time.

Mr. Wallace offered the following amendment to the bill:

Amend House bill No. 291 by striking out the sentence beginning with the word "provided" in line 20 and ending with the word "increase" in line 22.

The amendment was adopted.

House bill No. 291 was then passed to engrossment.

#### HOUSE BILL NO. 230 ON SECOND READING.

On motion of Mr. Johnson of Gillespie, by unanimous consent, the regular order of business was suspended to take up and have placed on its second reading and passage to engrossment,

H. B. No. 230, A bill to be entitled "An Act authorizing any steam or electric interurban railway company or sleeping car company, or chartered transportation company, or the receivers or lessees thereof, or the persons operating the same, or officers, agents or employes thereof, to grant free passes to any person who is now receiving or may hereafter receive a pension from the State of Texas under the provisions of Section 51 of Article 3 of the Con-



stitution of the State of Texas; providing how proof of such fact may be made, and declaring an emergency."

The Speaker laid the bill before the House, it was read second time, and was passed to engrossment.

#### ADJOURNMENT.

On motion of Mr. Miller of Dallas, the House, at 4:50 o'clock p. m., adjourned until 10 o'clock a. m. next Monday.

#### APPENDIX.

#### STANDING COMMITTEE REPORTS.

The following standing committees filed favorable reports today on bills, as follows:

Appropriations: House bill No. 149.  
Judiciary: House bills Nos. 480, 506.  
Public Health: House bill No. 475.  
State Affairs: House bills Nos. 343, 499, 386.

The following standing committees filed adverse reports today on bills, as follows:

Judiciary: House bill No. 537.  
State Affairs: House bills Nos. 73, 500, 54.

#### REPORTS OF COMMITTEE ON ENGROSSED BILLS.

Committee Room,

Austin, Texas, February 26, 1921.

Hon. Charles G. Thomas, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

H. B. No. 247, A bill to be entitled "An Act creating a more efficient road system for Tyler county, Texas; providing that each commissioner of the same shall be ex-officio road commissioner of his precinct; providing for an inspection of roads, bridges and culverts by said commissioner; providing for bonds, compensation and duties, and providing for the work of delinquent poll tax payers on the public roads and relieving them from the performance of said road work by the payment of \$5.00; providing that the commissioners court shall have power to build roads, bridges, culverts, etc., by private contract; providing that the commissioners court may employ a superintendent who shall be an experienced civil engineer in

road building; providing penalties for the violation of this act, and this act shall be cumulative of all general laws of this State not in conflict herewith; repealing Chapter 82, Special Laws, passed by the Thirty-second Legislature, and declaring an emergency."

H. B. No. 184, A bill to be entitled "An Act to make appropriations in order to enable the State of Texas to continue to receive the benefits of Federal funds appropriated to the States for vocational education under the provisions of the Smith-Hughes Act, accepted by the State of Texas, appropriating \$165,600, or so much thereof as may be necessary, for the fiscal year 1921-22 and an appropriation of \$185,600, or so much thereof as may be necessary, for the fiscal year 1922-23."

And find the same correctly engrossed.  
SNEED, Chairman.

Committee Room,

Austin, Texas, February 26, 1921.

Hon. Charles G. Thomas, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

H. B. No. 359, A bill to be entitled "An Act fixing the venue in prosecution for bigamy, and declaring an emergency."

H. B. No. 512, A bill to be entitled "An Act to amend Articles 1070 and 1075 of Chapter 15, Title 22, of the Revised Civil Statutes of the State of Texas of 1911, as amended by the General Laws of the Regular Session of the Thirty-third Legislature, both of which articles of the statutes relate to commission form of government for cities and towns of less than 5,000, and declaring an emergency."

H. B. No. 532, A bill to be entitled "An Act to amend an act passed by the Thirty-third Legislature, Regular Session, 1913, Chapter 3, Special Laws, approved February 11, 1913, Special Laws, Thirty-third Legislature, page 12, entitled 'An Act incorporating and creating the Rankin Independent School District of Upton county, Texas, for free school purposes only; defining its boundaries and providing for the election of a board of trustees, for the raising of revenue by taxation, for the issuance of bonds for building purposes and for the maintenance of public free schools in such district, and vesting said district and the board of trustees thereof with all the rights, powers, privileges and duties conferred and imposed by

general laws upon independent school districts and the board of trustees thereof, formed by the incorporation of a town or village for free school purposes only under the general laws, and declaring an emergency."

And find the same correctly engrossed.  
SNEED, Chairman.

Committee Room,  
Austin, Texas, February 26, 1921.

Hon. Charles G. Thomas, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

H. B. No. 528, A bill to be entitled "An Act to create a special and more efficient road system for Collin county, in the State of Texas, and making county commissioners ex-officio road commissioners and prescribing their powers and duties as such, and providing for their compensation as such road commissioners; and providing for the condemnation of lands and other property by said county for the purpose of laying out and establishing roads and for straightening, widening or draining any established road, and for the condemnation of any timber, earth or other material for the construction and maintenance of public roads, and to provide for compensation for the material used; and providing for the working of county convicts on the public roads and county farm and the purchase of supplies for such con-

victs, and the rewards for the capture of escaped convicts and for the commutation of sentences for faithful service and good behavior, and providing the powers and duties and liabilities of road overseers, and to provide for the summoning of road hands and teams for road work, and for the allowance of time for service of hands and teams on public roads and fixing the penalty for violation of same, and relieving them from the performance of such work by the payment of three (\$3.00) dollars, and providing that delinquent poll tax payers shall be liable for extra road duty of three days and providing for the manner of summoning and working of all persons liable for road duty on the public roads who have not paid such road tax or poll tax, and permitting substitution and payment of money in lieu of such service, and to provide for the manner of training and maintaining hedges along the public roads and the punishment for failure to comply therewith, and for the allowance of extra time for road overseers, and to provide punishment for all who obstruct any drain way of any public road; and providing further, making this act cumulative of the general laws now in force, and to repeal Chapter 84 of the Acts of the Thirty-sixth Legislature, being a special road law for Collin county, and declaring an emergency."

And find the same correctly engrossed.  
SNEED, Chairman.

**In Memory**  
**of**  
**Judge Benjamin Franklin Bean**

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Mr. McLeod offered the following resolution:

Whereas, The House of Representatives of the State of Texas has heard with regret of the death of Judge Benjamin Franklin Bean, who departed this life at his home in Livingston, Texas, February 14, 1921; the said B. F. Bean was born in Tyler county, Texas, June 24, 1852, and spent his early life and manhood in the counties of Tyler, Trinity and Polk; he received his education in the common schools of his country, the Sam Houston Normal at Huntsville, and the University of Texas at Austin; after having engaged in school teaching for some years, he spent the better part of his mature life as a practicing lawyer; and

Whereas, The said B. F. Bean was an honored, respected and useful member of the House of Representatives of the State of Texas during the Twenty-fifth Legislature, serving his district and State faithfully, honestly and efficiently; and

Whereas, He later served his adopted county of Polk with honor and distinction as county judge; therefore, be it

Resolved by the House of Representatives, That the State of Texas in his death has lost a beloved and distinguished citizen; his every example was of the highest type of patriotism and courageous manhood; therefore, be it further

Resolved, That the Chief Clerk of the House communicate these resolutions to the Senate of Texas and transmit a copy of these resolutions to the family of the deceased, and that a page of the Journal be set aside as a memorial to our beloved and respected former citizen; be it further

Resolved, That when this House adjourns that it do so in honor of the memory of the said B. F. Bean.

The resolution was read second time, and was adopted unanimously.